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FOR EAP/MTS; EB/TPP/IPE JBOGER
COMMERCE FOR 4430/BERLINGUETTE AND PETERS
COMMERCE PASS USPTO FOR URBAN AND FOWLER
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E.O. 12598: N/A
TAGS: [ECON](#) [ETRD](#) [KIPR](#) [ID](#)
SUBJECT: INDONESIA - JANUARY 2007 IPR UPDATE

1. (SBU) Summary: Unannounced "training visits" by the Ministry of Industry's (MOI) Optical Disc Factory Monitoring Team (MT) in late November to 25 of 27 registered optical disc factories show that the enforcement of Indonesia's Optical Disc Regulations (ODR) is still in its infancy. Evidence that some factories had been tipped off prior to the visits points to the possibility of collusion between team members and factory owners, and there are also reports of attempts by some team members to extort money from factory owners. Despite these issues, the MTs collected important data and evidence during their visits, including forensic samples from 100 of 127 lines at the 25 registered factories visited. The MOI agreed to allow an International Recording Industry Association (IFPI) forensic lab in England to analyze the samples, and already IFPI has determined that at least six factories, with 27 lines and capacity of up to 700,000 discs per day, are involved in piracy. Ironically, the owner of one of six factories producing bootleg DVDs serves as the Chairman of the Video Industry Association (ASIREVI), Indonesia's industry group for legally registered optical disc (OD) factories. The Embassy's two IPR technical advisors are working closely with IFPI to pull together a comprehensive report on the visits that we can share with key GOI officials. In order to make a significant dent in pirate OD production in Indonesia, the USG will need to continue to support the MT and find ways to generate greater political will and interagency cooperation to address the OD factories, particularly with regards to the police. End Summary.

2. (SBU) The Embassy's two State Department-funded IPR technical advisors, on board with the Department of Justice's International Criminal Investigative Training Assistance Program (DOJ-ICITAP) since September 2006, are off to an active start. In mid-November, the two held four days of digital photography and refresher training for members of the MOI's OD Factory Monitoring Team. Subsequently, with approval from MOI Director Tony Tanduk, the MT worked with the Embassy advisors and IFPI representatives to plan unannounced "training visits" to 27 of Indonesia's 28 registered OD factories, the remaining one being in Surabaya. Tanduk agreed that five experienced IFPI investigators, four of whom flew in to Indonesia for the training visits, could help supervise and guide each of four teams during their factory visits. Tanduk also agreed that the visits should be unannounced.

Factories Likely Tipped-Off Prior to Visits

3. (SBU) During a final briefing for MT members the Friday before the training visits, MT Deputy Head Azwar Ratu Pengadilan handed out a schedule for the MT to follow. The Embassy and IFPI advisors, however, explained to Azwar that, to preclude the possibility of tipping off factory owners, they would prefer to provide a separate schedule the following Monday while the MT investigation groups were en route to the factories. Azwar initially resisted but eventually acquiesced to the approach. Following the Friday meeting, Azwar was

seen busily making and receiving telephone calls, presumably from factory owners anxious about the inspections.

14. (SBU) As the teams gathered the following Monday to begin factory visits, the four members of the MT from the police were conspicuously absent. Those who could be reached by telephone claimed they could not join the factory visits due to other priorities that had unexpectedly arisen. (Comment: The INP's Special Crimes Division has the lead on Intellectual Property Rights (IPR) enforcement, but its efforts traditionally have been weak. This contrasts dramatically with successful ongoing IPR enforcement efforts of the Jakarta Metropolitan Police Special Crimes Unit, stationed less than a mile away. End Comment.) Moreover, despite requests that they turn off their mobile phones throughout the course of the factory visits, many MT members were seen sending and receiving text messages soon after the announcement of each day's schedule of visits.

Conditions at Some Factories Highly Suspect

15. (SBU) MT and IFPI representatives reported that many of the factories visited were either not producing or appeared to have been sanitized prior to the MT's arrival. Staff at some factories claimed that operations had ceased due to a lack of orders, repeating what they told MT members on previous visits months ago. (Comment: Given the value of the machinery and the opportunity cost of keeping it idle, their explanation seems suspect. End Comment.)

16. (SBU) Despite the security breaches, the MTs were able to collect 100 exemplar samples from the 25 plants visited. Following the visits, Tanduk agreed to allow the exemplars to be forensically examined at IFPI's laboratory in the UK. Initial IFPI forensic analysis suggests a high probability that six factories, with 27

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lines and production capacity of as much as 700,000 per day, are involved in piracy. PT Panca Surya Putera, an import/export trading company, owns five of the factories with 21 lines, as well as a mastering facility and broadband internet company located at the same address. Preliminary forensics indicates that two of PT Panca's production lines have been used to produce pirate ODs. With a mastering facility and broadband access, it is conceivable that PT Panca is producing its own pirate master moulds locally.

Industry Group Leader a Bootlegger Too

17. (SBU) The MT found two of six production lines unregistered at PT Akeda Multimedia, the sixth highly suspect factory. One of the two machines, a DVC line, was warm, indicating recent operation. However, the plant manager refused to allow the MT to run the machine, open the mould, or take samples, claiming that the machine was broken and that their engineer in Singapore had instructed that it should not be operated pending his arrival as otherwise serious damage would occur. Ironically, PT Akeda Chairman Nurdin Umar is the chairman of Indonesia's video association (ASIREVI), a group that publicly advocates against piracy. Another shareholder of PT Akeda, Wahadi Wiyanto, serves as ASIREVI's Secretary General and owns a distribution company that replicates New Line Cinema and independent movies in DVD format for distribution.

18. At PT Visindotama Sakti Perkasa, a factory with five replicating machines, the MT arrived and observed a truck apparently about to be unloaded with and estimated 10 to 15, 750 kilogram bags of polycarbonate. However, upon seeing the MT, factory staff quickly covered the truck and moved it off the factory grounds. A factory caretaker later claimed the factory had not operated for three months. However, the MT counted 80 empty and 12 full 750 kilogram unmarked (no manufacturer or batch numbers) bags of polycarbonate. With roughly 120 bags of polycarbonate, the factory could produce up to three million CDs or half that amount in DVDs.

19. (SBU) At several factories raided in the last year by police, MT and IFPI representatives observed the following:

-- PT Winnerstarindo: Police raided and sealed production lines at PT Winnerstarindo several month ago. During its recent visit, the MT found the electricity turned on and heard compressors operating. The door to the machinery area, however, was sealed with a padlock that factory staff claimed that the police installed. Soon after the MT arrival at the factory, a group of threatening looking men arrived outside the factory and stood menacingly by its entrance doors. IFPI and MT representatives said that, without police present, the MT felt threatened and decided to leave the factory.

-- PT Medialine: Police raided and sealed production lines at PT Medialine around April 2006. During its visit, the MT found a broken police seal on the main entrance gate and photographed it. As no police were present, the MT did not enter the premises. Police had reportedly arrested one of the factory's managers, who was reportedly sentenced to 18 months in prison for piracy. However, in spite of the conviction, the MOI has yet to suspend or revoke the factory's registration.

-- PT Visora Catur Disindo: On August 1, 2006 police raided and removed one of four production lines. The MT found the factory's three remaining lines remained in operation. There is no further information available on police investigations into the factory, and MOI has yet to revoke or suspend its production license.

-- PT Takdir Jaya Abadi: Police raided the plant in February 2006. The MT found the plants four lines still operational.

Governance Issues Swirl Around MT

¶10. (SBU) In the months prior to the recent trainings and factory visits, two factories lodged complaints that Wihadi and another ASIREVI executive (who served as a member of the MT) had attempted to extort money from them to ensure that their plants passed the MT inspections. Soon after one of the factories refused to pay, the police raided the factory and detained its director for a month on a minor charge of failing to have proper censor documentation for one of the film's it was replicating. The Embassy's IPR advisors subsequently raised this matter with Tanduk, and he agreed that it was best to remove all industry representatives from the MT.

IPR Map Out More Capacity Building

¶11. (SBU) Following the factory visits, the Embassy IPR advisors

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arranged a well-attended one day workshop for representatives of OD factories and importers of polycarbonate to provide them with further guidance on their obligations under Indonesia's OD regulations and international best practices. Based on lessons learned during factory visits, the IPR advisors have formulated the following list of recommendations and activities for the GOI to undertake during the coming year. They will pass the list to Tanduk in the coming days.

-- Assign staff full-time to serve on the MT, instead of seconding staff on a part-time basis;

-- Provide the MT's new office with full time secretarial support which can assist in improving the OD factory database and keeping it up to date;

-- Issue official warning letters to non-complaint factories;

-- Facilitate better cooperation and information sharing between key agencies involved in OD regulations implementation, including case development and prosecution;

-- Revoke licenses of factories producing pirated goods, especially in cases where there is a successful prosecution.

-- Require prosecutors to demand the sealing and seizing of equipment and machinery used to pirate goods.

- Develop and implement MT security best practices to avoid factories being tipped-off in advance of monitoring visits;
- Encourage inspection outside regular business hours; and
- Explore ways to better monitor production of blank CD-R and DVD-Rs.

Comment: Where the Rubber Hits the Road

¶12. (SBU) The unannounced factory visits represent the first serious and systematic GOI attempt to implement the ODRs, and will hopefully be the start of a long process to build GOI enforcement capacity and raise the costs of producing pirated ODs in Indonesia. Given Indonesia's high rates of piracy, production over-capacity, and poor enforcement, it is not surprising that MT visits uncovered evidence of piracy -- in fact, any other outcome from the inspections would not have been credible. Nor is it surprising that leaders of the legitimate industry are dabbling in piracy and likely involved in buying-off members of the MT. As a result of the inspections and IFPI forensic analysis, we should soon have a compelling case of widespread registered factory involvement in piracy. We will present this evidence to senior GOI officials concerned with IPR, all of whom are keen to maintain Indonesia's Special 310 Watch List status. With so many kinks in the system yet to be worked out, our DOJ-ICITAP advisors will continue to be critical to effectively implementing the ODRs, providing desperately needed capacity building and guidance, and encouraging interagency cooperation.

ANDERSON